

16

**REGULAR**

**NUMBER:** 38.768

**TITLE:** AN ORDINANCE OF THE CITY OF MILPITAS REZONING A PARCEL OF LAND FROM AGRICULTURE (A) TO SINGLE-FAMILY RESIDENTIAL (R1-6) (CALAVERAS COUNTRY ESTATES).

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of June 20, 2006, upon motion by Councilmember \_\_\_\_\_ and was adopted (second reading) by the City Council at its meeting of \_\_\_\_\_, 2006, upon motion by Councilmember \_\_\_\_\_. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Steven T. Mattas, City Attorney

**ORDAINING CLAUSE:**

**THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Recitals and Findings.

- A. Pursuant to Government Code section 65853 and 65854, the Planning Commission of the City of Milpitas held a properly noticed public hearing on February 22, 2006 to consider the change in zoning from Agriculture (A) to Single-Family Residential (R1-6) to the Calaveras Country Estates Residential Project. In accordance with Government Code section 65855, the Planning Commission has rendered a decision in the form of a written recommendation, which was presented to the City Council prior to consideration of this Ordinance.
- B. Upon receipt of the Planning Commission's written recommendation, the City Council held a properly noticed public hearing on May 2, 2006.
- C. The City Council finds that this Ordinance does not render the Zoning Map or Title XI, Chapter 10 inconsistent with the City of Milpitas General Plan.

**SECTION 2.** The *Zoning Map* of the City of Milpitas, which was adopted as part of Ordinance No. 38, enacted as Title XI Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code is hereby *amended by adding a new Sectional District Map No. 557*, which includes the zone change of one parcel, a copy of which is attached as Exhibit A incorporated herein by reference and summarized below.

APN	Existing Zoning	Proposed Zoning
<b>88-16-041</b> (entire parcel)	Agriculture (A)	Single-Family Residential (R1-6)

**SECTION 3.** Publication and Effective Date. This ordinance shall take effect 30 days following its passage, and prior to the expiration of 15 days of the passage thereof shall be published at least once in a newspaper of general circulation, published and circulated in the City of Milpitas, County of Santa Clara, thenceforth and thereafter the same shall be in full force and effect.

**SECTION 4.** Severability. In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

## AGENDA REPORTS

### **XIV. PUBLIC HEARINGS**

- 1. Approve Major Tentative Map No. MA2004-3 and Zone Change No. ZC2004-1 for a five (5)-lot subdivision and rezone from Agriculture (A) to Single-Family Residential (R1-6), located at 2016 Calaveras Road (Staff Contact: Kim Duncan, 586-3283)**

**Background:** On February 22, 2006, the Planning Commission recommended approval to the City Council for a five (5)-lot subdivision and change of zoning from Agricultural (A) to Single-Family Residential (R1-6) for a .735-acre (.95 gross acre) parcel. The purpose for the subdivision and rezone is to allow the creation of five (5) lots where one (1) lot and 3 homes currently exist. As a part of the application, the Planning Commission adopted the associated Initial Study and Mitigated Negative Declaration (EA2005-8) and approved the removal of eight (8) ordinance-sized protected trees.

The proposed parcels range in size from 6,023 square feet to 6,740 square feet and would have lot widths exceeding the required minimum of 60 feet and have an average slope of 5%. The three (3) existing single-family residences will be demolished and, ultimately, five (5) new single-family houses would be constructed on the project site.

**Access:** Primary access to the project site is currently provided by three (3) driveways located off Calaveras Road. The applicant is proposing to remove the existing driveways and construct five (5) new driveways (net increase of 2) to provide access to each new parcel. In order to provide future residential property owners safe egress onto Calaveras Road, hammerhead driveways on each parcel are positioned to allow sufficient room for vehicles to turn around and exit onto Calaveras Boulevard without having to back out.

**No-Build Zone:** The project site is located adjacent to the Arroyo de Los Coches channel, which is part of a Santa Clara Valley Water District flood control drainage easement. The creek bed and slopes are reinforced with rock slope (gabion) protection. The proposed rear yards of the five (5) parcels would have an average depth of 32 feet and consist of a 15-foot setback, as measured from the building footprint, with the remainder (minimum 10 feet) consisting of the Los Coches creek top-of-bank and slopes. To ensure creek slope stability, the 15-foot rear setback from the building footprint would be designated as a "no build zone" for structures, such as pools and accessory buildings, near the creek top-of-bank.

**SCVWD Easement:** The project site is bound to the south by a SCVWD Flood Control/ Drainage Easement, however an approximately 156 square foot rectangular shaped portion of property (at the rear property line of Lot 1 extending behind the parcel located at 2004 Calaveras Road) was not dedicated to SCVWD for flood drainage purposes. This 156-square foot portion of property will be dedicated to the SCVWD as flood control easement to create consistency with the existing flood control/drainage easement.

**Protected Trees:** Since Planning Commission approval, the applicant has continued to work with staff and, as shown on the modified Tentative Map, is proposing to retain or relocate five (5) protected olive trees (Nos. 2, 3, 4, 5, and 7) on site. As such, the conditions of approval have been modified to reflect this change.

**Other Improvements:** As required by the City's Subdivision Ordinance, the applicant will install necessary public improvements along Calaveras Road, including curb, gutter, pavement, sidewalks, striping, streetlights, and underground existing services, as well as pay the required park-in-lieu fee.

#### **Recommendations:**

1. Close the public hearing.
  2. Approve the Major Parcel Map No. MI2004-3 and Zone Change No. ZC2004-1 subject to the attached Findings and Special Conditions.
2. **Consideration of Alternative Draft Preferred Plan and Draft Preferred Plan – Reduced Residential for Transit Oriented Development in the Study Area Surrounding the Future Montague/Capitol BART Station and Two Existing Valley Transportation Agency (VTA) Light Rail Line Stations (Staff Contact: Dennis Carrington, 586-3275)**

**Background:** On November 16, 2004, the City Council directed the City Manager to negotiate a contract with the firm of Dyett & Bhatia to prepare Phase I of the Transit Area Plan for a ±400 acre area surrounding two VTA Light Rail Stations and the Future Montague / Capitol BART Station. Phase I entailed the conducting of a community visioning exercise and the preparation of preliminary concept plans. As a result of Stakeholder interviews and two design charrettes, Dyett and Bhatia completed three draft alternative concept plans that were presented to the Planning Commission on March 23, 2005. The Planning Commission recommended that two alternative concept plans be forwarded to the City Council for approval. The City Council adopted the two concept plans as recommended by the Planning Commission.

The “Concept Plan” proposed a “Retail Mixed-Use” category (dark pink on the attached plan) area opposite the Great Mall, four residential subareas and the Great Mall subarea. The “Alternative Concept Plan” differed from the “Concept Plan” only in that it proposed a “High Density Mixed Use” category (orange on the attached plan opposite the Great Mall). The Concept Plan had more of an emphasis on retail (although it had more dwelling units) and the Alternative Concept Plan had an emphasis on high density residential. As part of this action, the City Council directed staff to initiate Phase II of the Transit Area Specific Plan with the two alternatives. Phase II includes preparation of the specific plan and EIR.

On July 5, 2005, the City Council authorized the City Manager to negotiate a contract with the firm of Dyett and Bhatia, Urban and Regional Planners, to prepare Phase II of the Transit Area Specific Plan.

Staff has worked with Dyett and Bhatia since the initiation of Phase II to interview stakeholders again where necessary and refine and revise the two concept plan alternatives selected by the City Council. In moving towards development of the specific plan, staff and the consultant have developed a more detailed land use plan, prepared a market analysis study, fiscal impact analysis, traffic study and infrastructure study. However, prior to proceeding further, staff is seeking direction on one of the two following plans.

Alternatives:

The **Draft Preferred Plan** proposes 7,185 new residences, 813,343 square feet of new office, 175,500 square feet of new hotel use and 520,026 square feet of new retail.

The **Draft Preferred Plan – Reduced Residential Alternative** proposes 5,601 new residences, 762,732 square feet of new office, 175,500 square feet of new hotel use and 470,795 square feet of new retail.

These two alternatives are described in detail in the attached report from Dyett and Bhatia. The report addresses the original concept plans, the results of a market analysis for the study area, fiscal issues, sewer and water capacity, traffic analysis, BART station design and line layout, railroad lines in the Piper Montague area, school demand, park needs and requirements, public safety services, and environmental issues.

Upon City Council selection of a preferred plan, staff will proceed with completing the remaining work on the specific plan and EIR. The attached report recommends greater land use flexibility on Montague than the adopted concept plans, higher residential densities on parcels adjacent to

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| * 11. Agreement with the State Dept. of Transportation regarding So. Park Victoria Dr. Pavement Rehabilitation | Adopted Resolution No. 7586 Authorizing the Public Works Director to Execute an Agreement with the State of California, Department of Transportation regarding South Park Victoria Drive Pavement Rehabilitation, Project No. 4225.  |
| * 12. Transfer of Real Property to Valley Transportation Authority   | Authorized the Transfer of Real Property to Valley Transportation Authority and Acceptance of Correctional Deeds from Valley Transportation Authority; Tasman Extension – Great Mall Parkway to I880, Project No. 4133 with these two actions:<br>1. Authorized City Manager to convey the deeded parcel for the VTA substation to VTA.<br>2. Authorized City Manager to accept correctional deeds from the VTA. |
| * 13. Reject Bid Protest and Award Construction Contract for Berryessa Pump Station                            | Rejected bid protest from second lowest bidder and awarded construction contract to Anderson Pacific Engineering Construction in the amount of \$582,315, for Project No. 8138, Berryessa Storm Pump Station located at Hidden Lake Park.  |
| * 14. Award the Bid for Traffic Control System   | Awarded bid for the Traffic Control System to Iteris for the not to exceed amount of \$59,477.96.  |

### **PUBLIC HEARINGS**

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| 1. Approve Major Tentative Map No. MA2004-3 and Zone Change No. ZC2004-1 for 5-lot subdivision and rezone from Agriculture to Single-Family Residential (R1-6), at 2016 Calaveras Rd | Planning Director Tom Williams presented the request to approve the tentative map for the project at 2016 Calaveras Rd, where a zoning change was needed to build two new homes on the five-lot subdivision. He described the area, where Los Coches Creek runs behind the proposed development. The Planning Commission had approved this project.<br><br>In addition, Mr. Williams identified five trees that would be saved on property including four olive trees. |
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Vice Mayor Gomez asked about a warning signal at the intersection of Piedmont and Calaveras. Councilmember Livengood inquired about speeders going in and out there and was the warning signal sound there for control? Staff replied yes. He also asked if all houses in the development were connected to City sewer and staff replied yes.

Mayor Esteves asked about the traffic pattern in that section of the City and expressed his desire to have a reduction of traffic accidents.

Councilmember Polanski was concerned about the driveways there. She asked if there were any future plans to put a traffic signal at that location. Traffic Engineer Jaime Rodriguez replied no, since the traffic count volume per City surveys do not call for it at this time, and then described the surveys that have been done.

The Mayor asked for comments from the public.

**Applicant Sylvia Leong** introduced her brother and sister, whom she would recommend to join the VITA program next year during tax season. She owned the lot with her family and looked forward to the appropriate development of their land. They had no request for any variance, and would work with City staff toward the goal of not cutting down the trees in the project area.

(1) Motion: to close the public hearing.

Motion/second: Councilmember Giordano/Vice Mayor Gomez

Motion carried by a vote of:	AYES: 5
	NOES: 0

(2) Motion: to approve the Major Parcel Map No. MI2004-3 and Zone Change No. ZC2004-1, subject to the attached Findings and Special Conditions, including environmental concerns noted in staff report.

Motion/second: Councilmember Giordano/Councilmember Livengood

Motion carried by a vote of:

AYES: 5

NOES: 0

## 2. Preferred Plan – Reduced Residential for Transit Oriented Development in BART Area

Planning and Neighborhood Services Director Tom Williams introduced the plan for the Council's consideration of two alternatives. Council was to consider an Alternative Draft Preferred Plan and a Draft Preferred Plan for Reduced Residential for Transit Oriented Development in the Study Area Surrounding the Future Montague/Capitol Bart Station and Two Existing Valley Transportation Agency (VTA) Light Rail Line Stations. Mr. Williams explained and displayed that the transit area development was broken into five sub-areas.

After this meeting and receiving direction from Council, staff would move forward on the draft Environmental Impact Report next. Mr. Williams stated that 22% of the tasks were completed for the Transit Area Specific Plan. Quarterly staff reports were due to the City Council routinely.

Mr. Williams next introduced the consultant team representative Ms. Leslie Gould from Dyett & Batia. She provided a lengthy review of the options and details the City Council needed to consider when making a selection between the two proposed alternatives.

Councilmember Livengood asked the consultant why there was an identified need for another Fire Station. An analysis showed with the great increase in the number of residents (up to 14,000 new residents), it could require another engine company. This was partly determined in her discussion with Fire Department staff.

Mr. Bill Lee, the economic consultant on this plan, addressed the City Council describing in detail the economic impacts and some of the consequences of the transit plan in Milpitas. He spoke to the 4400 residential units with potential for 20% more and of the 500,000 new retail square feet.

Councilmember Livengood asked questions with regard to fairness to landowners, when property exchange for park space was necessary.

Mr. Lee gave an overview of the Preferred Plan and of the Alternative. He identified the application of a Community Facilities District (started one year ago) required for new development in this City in order to reach the General Fund balance necessary for services in the transit area. Additionally, Ms. Gould gave explanation of the need for a CFD, with the amount of residential vs. hotel and retail space volume, and the formula. Flexibility for the market discussed. For example, there would likely be strong demand for a new grocery store, as residents move into neighborhood.

Vice Mayor Gomez asked what did 20% retail look like, in a mixed use area (such as Santana Row)? Ms. Gould replied that was hard to answer, until more variables become known and that good model developments in other communities could serve to inform Milpitas.

Councilmember Giordano commented on density and the retail strategy. Ensuring that the City would maximize housing near transit has been the philosophy. So, she leaned toward the maximum number of housing units in the transit area. She also read aloud some comments she had received with regard to the retail needs in the area.

Councilmember Polanski agreed with Mr. Livengood, in terms of questioning the need for any additional fire station, with Fire Station #1 close by this study area. She expressed her concerns for the retail percentage proposed and for the schools needed in the area, and mentioned possible joint use of facilities. She expressed her preference for higher density for residential development.

## **FINDINGS AND RECOMMENDED SPECIAL CONDITIONS**

### **MAJOR TENTATIVE MAP NO. MA2004-3 AND ZONE CHANGE NO. ZC2004-1**

Calaveras Country Estates  
2016 Calaveras Road (APN 88-16-041)

**Planning Commission Recommended Approval:** February 22, 2006

#### **FINDINGS**

##### **California Environmental Quality Act**

1. The Initial Study and Mitigated Negative Declaration (EIA No. EA2005-2) prepared for this project represents the independent review of the City of Milpitas Planning Staff and Planning Commission.

##### **General Plan**

2. The proposed project is consistent with the Milpitas General Plan in that it is consistent with:
  - Guiding Principles 2.a-G-3 and 2.a-I-10, which provide for a variety of housing types and densities that meet the needs of individuals and families, as well as foster community pride and growth through beautification of existing and future development;
  - Implementation Policy 2.a-I-2 which promotes in-fill development in the incorporated city limits. The project is an infill project replacing existing residential structures, primarily surrounded by existing developed sites;
  - It does not conflict with any existing policies, allows the development of new housing uses within this portion of the City, and will be in conformance with the underlying General Plan land use designations once approved by the City Council.

##### **Zoning Ordinance**

3. The proposed project, as conditioned, is consistent with the Milpitas Zoning Ordinance in that the proposed development is within the allowable density of the zoning district and conforms to the land use and development standards of the Single-Family Residential (R1-6) zoning district.
4. As conditioned, the proposed project complies with the Milpitas Municipal Code, Chapter X-2 (Tree and Planting Ordinance) in that the removal of protected trees will be replaced at a ratio where no adverse visual impact would result.
5. The layout of the site is compatible and aesthetically harmonious with adjacent and surrounding development because the project would be complementary to the adjacent existing residential development to the northwest, west, and south of the project site.

### **Subdivision Map Act**

6. The proposed project is consistent with the State Subdivision Map Act and the Subdivision Ordinance in that the proposed subdivision, design, and improvements are consistent with the General Plan.
7. The site is physically suitable for the type of development proposed because the project site is relatively flat, currently developed with three (3) residential structures, and located adjacent to residential developed properties.
8. The site is physically suitable for the proposed density of development because the project is in conformance with the General Plan density requirements, and the Zoning Ordinance in terms of lot area, width, and yard requirements.
9. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife and their habitat because, as conditioned, no structures will be permitted within the required rear yard at the creek top of bank, bat roosts will be protected, and Best Management Practices (BMPs) will be in place during construction activities.
10. That the design of the subdivision or type of improvements is not likely to cause serious public health problems because Best Management Practices (BMPs) will be in place during construction activities
11. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because, as conditioned, all appropriate encroachment easements will be obtained prior to construction activities, and access to property will be from a city maintained public street.

### **CONDITIONS OF APPROVAL**

1. This approval is for Major Tentative Map No. MA2004-3, Zoning Map Amendment No. ZC2004-1, 'S' Zone Approval Amendment No. SA2005-16, and Environmental Impact Assessment No. EA2005-8 to create five (5) new parcels, rezone the property from Agriculture (A) to Single Family Residential (R1-6), and removal of 8 2 protected trees, as depicted on the Major Tentative Map, dated February 22, 2006, and as amended by these conditions of approval. (P, Modified 4/18/06)
2. The proposed project shall be conducted in compliance with all applicable federal, state, and local regulations. (P)
3. If, at the time of submittal for Parcel Map approval, there is a project job account balance due to the City for recovery of review fees, review of parcel map will not be initiated until the balance is paid in full. (P)
4. Prior to submittal for Final Map recordation, the applicant shall pay to the City the park-in-lieu fee. (P)
5. Prior to the issuance of building permits, the applicant provide a detailed landscape plan showing a minimum replacement ratio of 2:1 24" box trees on the project site to the Planning Division for review an approval. (P)
6. Prior to issuance of building permits, the landscape plans shall show and the applicant shall install, tree protective fencing at the drip lines of tree Nos. 2, 3, 4, 5, 6, 7, 8, & 11. The tree



protective fencing shall remain in place during all construction activities. ~~on Lots 2 & 11.~~  
(P, Modified 4/18/06)

7. Watering all active construction areas twice daily and more often during windy periods. Active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives. (*Mitigation Measure III.d-1*) (P)
8. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least a 2-foot freeboard level within their truck beds. (*Mitigation Measure III.d-2*) (P)
9. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites. (*Mitigation Measure III.d-3*) (P)
10. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites. (*Mitigation Measure III.d-4*) (P)
11. Sweep streets daily with water sweeper if visible soil material is carried onto adjacent public streets. (*Mitigation Measure III.d-5*) (P)
12. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.). (*Mitigation Measure III.d-6*) (P)
13. Install sandbags or other erosion control measures to prevent silt runoff to public roadways. (*Mitigation Measure III.d-7*) (P)
14. Plant vegetation in disturbed areas as quickly as possible. (*Mitigation Measure III.d-8*) (P)
15. Suspend excavation and grading (all earthmoving or other dust-producing activities during periods of high winds when watering cannot eliminate visible dust plumes or when winds exceed 25 mph (instantaneous gusts)). (*Mitigation Measure III.d-9*) (P)
16. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site. (*Mitigation Measure III.d-10*) (P)
17. Limit the area subject to excavation, grading and other construction activity at any one time. (*Mitigation Measure III.d-11*) (P)
18. Pre-construction Surveys and Buffer Zones. A pre-construction survey for roosting bats should be conducted prior to demolition of the buildings. The survey should be conducted by a qualified bat biologist (i.e., a biologist holding a CDFG collection permit and a Memorandum of Understanding with DCFG allowing the biologist to handle and collect bats). No activities that would result in disturbance to active roosts would proceed prior to the completed surveys. If no active roosts are found, then no further action would be warranted. If either a maternity roost or hibernaculum is present, the following mitigation measure should be implemented. CDFG should also be notified of any active nurseries within the construction zone. (*Mitigation Measure IV.a-d.1*) (P)
19. Exclude Bats Prior to Demolition of Roosts. If an active nursery roost is found, demolition of the buildings should commence before maternity colonies form (i.e., prior to March 1) or after young are volant (flying) (i.e., after July 31). If a non-breeding bat hibernaculum is found, the individuals should be safely evicted, under the direction of a qualified bat biologist (as determined by a Memorandum of understanding with CDFG), by opening the roosting area to allow air flow. Demolition should then follow no sooner than the following day (i.e., there should be no less than one night between initial disturbance for air flow and the demolition). This action should allow bats to leave during dark hours, thus increasing the

chance of finding new roosts with a minimum of potential predation during daylight.  
(*Mitigation Measure IV.a-d.2*) (P)

20. Prior to any tree removal, the applicant shall submit to the City a landscape plan showing all existing trees on site, with species, common name, circumference, trees proposed for removal, and replacement at a 2:1 ratio of 36" 24" box trees to Planning Staff approval.  
(*Mitigation Measure IV.a-d.3*) (P)
21. Prior to issuance of grading permits, the project archeologist shall conduct a detailed evaluation of subsurface construction plans when these plans become available to determine the areas that will be impacted by grading and trenching. (*Mitigation Measure V.b-d.1*) (P)
22. The project archeologist shall hand excavate a salvage sample of 5% deposit that is to be impacted by grading and trenching and analyzed with the results to be presented in a final written report to the City. This excavation will be implemented to gather data from the parts of the site which are proposed for disturbance and will occur prior to the issuance of any building or grading permits. (*Mitigation Measure V.b-d.2*) (P)
23. All earth moving activities of native soils during construction shall be monitored by a qualified archaeologist. (*Mitigation Measure V.b-d.3*) (P)
24. In the event during monitoring, significant prehistoric traces (human remains, artifacts, concentrations of shell/bone/rock/ash) are encountered, all construction within a fifty meter radius of the find should be stopped and the applicant will notify the Planning Division immediately. The project archaeologist shall examine the find and make appropriate recommendations based on State and local regulations and City Council Resolution No. 7287. The applicant will abide by the archeologist's recommendations. (*Mitigation Measure V.b-d.4*) (P)
25. The project archaeologist will produce a report that thoroughly discusses the site with archival documentation, description and analysis of archaeological findings to preserve significant information relating to the site. The report shall include a signed statement from the project archaeologist that all mitigation measures have been complied with. The report will be submitted to City Planning Staff and the Northwest Information Center of the California State Inventory. (*Mitigation Measure V.b-d.5*) (P)
26. Prior to demolition permit issuance or any pre-demolition activities, a Phase I Environmental Assessment detailing the project site history and potential for soil/groundwater hazardous materials contamination shall be submitted to the Planning Division for review. (*Mitigation Measure VII-b-1*) (P)
27. Project grading and construction activities shall not occur outside the hours of 7:00 a.m. to 7:00 p.m. on weekdays and weekends, and shall not occur on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, as per the City of Milpitas Noise Ordinance. (*Mitigation Measure XI-a-1*) (P)
28. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)

29. Prior to issuance of any building permits, developer shall obtain approval from the City Engineer of the water, sewer and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)
30. At the time of final map approval, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to final map approval. (E)
31. Show on the tentative map how the site will drain. Drainage facilities outletting sump conditions shall be designed to convey the flows and protect all buildings. There should be no overbank drainage from the developed portion of the site into the creek. For developed portion of the site, storm water runoff should be collected and distributed to the City's storm drain system. The existing storm drain outfalls shall be capped and/or removed. (E)
32. Prior to final map approval, the developer shall obtain design approval and bond for all necessary public improvements along Calaveras Road, including but not limited to curb and gutter, pavement, sidewalk, signage and striping, street lights, fire hydrants, storm drain, sewer and water services and adjustment of all existing utility boxes to grade. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. Prior to building occupancy permit issuance of the last building, all public improvements shall be completed. (E)
33. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, plan check and inspection deposit. (E)
34. Prior to final map recordation, the developer shall pay a \$15,000 contribution towards the design and /or construction of a traffic signal improvements or other traffic safety improvements at Calaveras Boulevard/Piedmont-Evans Road intersection. (E)
35. Prior to any building permit issuance developer shall submit an executed petition to annex the subject property into the CFD 2005-1, with respect to the property, the special taxes levied by Community Facility District (CFD 2005-1) for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized concurrently with the final map recordation or prior to any building permit issuance, whichever occurs first. The developer shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. (E)
36. In accordance with Milpitas Municipal Code XI-1-7.02-2, the developer shall underground all existing wires between the utility poles number 1 and 3, 2 and 5, and poles 3 to 7, with utility poles number 3, 4, 5, and 6 to be removed, as shown on the Engineering Services Exhibit "T" dated 9/12/2005 with the exception of transmission lines supported by metal

poles carrying voltages of 37.5KV or more do not have to be undergrounded. In addition to existing overheads and proposed services, developer shall also underground existing services to the adjacent property on the Southeast corner of Calaveras Road and Piedmont Drive intersection. (E)

37. Prior to recordation of any final map, the developer shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. (E)
38. The final map shall be recorded prior to issuance of any building permit. (E)
39. The final map shall show a 15-foot wide backyard setback restriction, as shown on the engineering services exhibit "T", dated 1/26/2006. No permanent structures such as buildings, pools, storage shed and other structures will be permitted within this restricted area. (E)
40. The developer shall dedicate on the final map necessary public service utility easements, street easements and easements for water and sanitary sewer purposes. (E)
41. Prior to final map recordation, developer shall dedicate to Santa Clara Valley Water District necessary easement/deed for Flood Control and Drainage Purposes, as shown on the Engineering services Exhibit "T" dated, 1/26/2006. (E)
42. The developer shall submit the following items with the building permit application and pay the related fees prior to final inspection (occupancy) by the Building Division:
  1. A. Water Service Agreement(s) for water meter(s) and detector check(s).
  2. B. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.
  3. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). (E)
43. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation.
44. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrub are permitted within City utility easements, where the easement is located within landscape areas. (E)
45. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), developer may be required to obtain a permit for removal of any existing tree(s). Contact the Street Landscaping Section at (408) 586-2601 to obtain the requirements and forms. (E)
46. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)
47. This project is below the 1-acre impervious surface threshold therefore it is exempt from Regional Water Quality Control Board's C.3 requirements. (E)

48. Prior any grading permit issuance, developer shall submit plan to Santa Clara Valley Water District (SCVWD) for review, and obtain their approval. Provide a slope stability analysis on the existing wall/slope for the proposed Fill and retaining wall along the creek side. All correspondence with SCVWD shall be provided to the City. (E)
49. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)
50. It is the responsibility of the developer to obtain any necessary encroachment permits from affected agencies, including but not limited to, Pacific Gas and Electric, SBC, Comcast, and Santa Clara Valley Water District. Copies of approvals or permits from other agencies must be submitted to the City of Milpitas Engineering Division. (E)
51. The developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities. (E)
52. Developer shall submit to the City for approval, a Demolition Plan for the existing buildings to be removed. All utilities shall be properly disconnected before the building can be demolished. Submitted plan shall clearly show (state) how the water service(s), sewer service(s) and storm service(s) will be disconnected. (E)
53. Make changes as noted on Engineering Services Exhibit "T" (dated 1/26/2006) and submit a Mylar of the revised tentative map to the Planning Division within three weeks of this tentative map approval. No application for the review of the final map or improvement plans will be accepted until this condition is satisfied. (E)
54. The seller shall provide disclosure of ranch activity through a recommended disclosure document to the satisfaction of the City Attorney. (PC 2/22/06)

(P) = Planning Division

(E) = Engineering Department

**VIII.  
CONSENT CALENDAR  
Item Nos. 1 and 2**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Staff had no changes to the consent calendar.

Chair Williams opened the public hearing on Consent Item Nos. 1 and 2.

There were no speakers from the audience.

**Close the public hearing**

**Motion** to close the public hearing on Consent Item No. 2 and continue Item No. 1 to March 8, 2006.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

**Motion** to approve the consent calendar on Consent Item Nos. 1 and 2.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

**\*1 USE PERMIT NO. UP2005-27:** A request to locate six (6) panel antennas and four (4) associated equipment cabinets in the Great Mall Tower sign and install a roof top penthouse for the operation of the omnipoint T-Mobile network located at 447 Great Mall Drive. *(Recommendation: Continue to March 8, 2006)*

**\*2 USE PERMIT AMENDMENT NO. UA2006-1:** A request for the sales of all types of alcohol for an existing restaurant within Ulfert's Center located at 692 Barber Lane. *(Recommendation: Approval with Conditions)*

**IX.  
PUBLIC HEARING**

**1.  
MAJOR TENTATIVE  
MAP NO. MA2004-3,  
ZONE CHANGE NO.  
ZC2004-1, "S" ZONE  
APPROVAL  
AMENDMENT NO.  
SA2005-16, AND  
ENVIRONMENTAL  
IMPACT ASSESSMENT  
NO. EA2005-8**

Kim Duncan, Junior Planner, presented a request for a five (5) lot subdivision of a .95 gross acre, (.735 net acre) parcel, rezoning from Agriculture (A) to Single-Family Residential (R1-6), and removal of protected trees, located on the southeast portion of Calaveras and Piedmont Roads at 2016 Calaveras Road and recommended approval with conditions. Ms. Duncan also referenced the memo that was passed out to the Commission noting the following correction to the staff report:

*Page 5, 4<sup>th</sup> paragraph, line 9 should read "...replace the trees at a 2:1 ratio with 36" 24" box trees."*

Vice Chair Galang asked about the proposed building footprints and driveways that require the removal of eight protected trees. Ms. Duncan explained that the applicant was initially proposing a circular driveway, however, they would have exceeded the requirements for front yard coverage limitation so they chose a hammerhead style driveway instead. She also explained that because of the restrictions on the site, the applicant would have to remove the trees in order to meet the zoning ordinance requirements as well as have safe access.

Vice Chair Galang asked to explain the hammerhead driveway and Ms. Duncan said that it is like an enlarged T that enables cars to drive in and to back out, yet back out in reverse where they can leave the parcel vehicle front end.

Commissioner Mandal asked staff to explain the extent of the scenic route. Ms. Duncan said that it is right on Calaveras Road in front of the site and showed the Commission a copy of the scenic route map from the General Plan.

Commissioner Mandal asked if the scenic corridor will be compromised by this project and Ms. Duncan explained that because the general plan designation is single-family low density, there was a determination back in 1998 with the general plan amendment that single-family residential districts are exempt from scenic corridor policies.

Commissioner Mandal asked if there is a sign on Calaveras that states scenic route and Ms. Duncan said no.

Commissioner Tabladillo said she is concerned that there is not a neighborhood community impact analysis in the staff report and wants to make sure that staff is making an effort to work with the community.

Commissioner Ali-Santosa asked about mitigation to prevent urban runoff to the creek behind the property line and clarification on condition no. 13 that reads below:

*13. Install sandbags or other erosion control measures to prevent silt runoff to public roadways. (Mitigation Measure III.d-7) (P)*

Ms. Duncan explained that the applicant is proposing new drainage on the rear that will drain the water through Calaveras Road and away from the creek.

Chair Williams asked staff why they changed the 2:1 ratio for the replacement trees from a 36" box tree to a 24" box tree. Ms. Duncan said that the City's street and landscape supervisor recommended a 24" box tree for replacement because they have a better chance of surviving than a larger size.

Chair Williams invited the applicant to come forth.

**Sylvia Leung, Co-Owner of the property**, stated that she has lived in Milpitas for 20 years and has been in business for 13 years and enjoys working with the City of Milpitas. They purchased the parcel a couple of years ago and are looking forward to developing five parcels. She noted they worked with Santa Clara Valley Water District and gave away 15 feet of their backyard to ensure the safety of driving in and out. She said they are in conformance with the General Plan and do not need a variance. She asked the Commission to approve the project

Commissioner Azevedo asked what would be the price of the homes. Ms. Leung said that she is hoping to price the homes from \$800,000 to \$900,000 for homes that are between 2,500 and 2800 square feet.

Commissioner Tabladillo asked the applicant how much she worked with the neighbors behind the parcels. Ms. Leung said that she only heard from one neighbor, and at the time, the City was considering using the lot as a parking lot for another project. She felt that the new development would make the area look nicer.

Vice Chair Galang asked if the property is located at the foothills of the mountain and Ms. Leung said the property is located on flat land.

Chair Williams opened the public hearing.

**Manuel Franco, 80 Evans road,** said that the horse ranch is located on the northeast corner of the property and wanted prospective buyers to be aware that the horse ranch has been there since the 1800's. With the ranching comes the view of horses and cows and flies and the smell of manure. He recommended that this information be included in the CC&R's.

**David Blanch, Alviso Adobe Court,** said that he wasn't contacted from the city about tonight's meeting. He is concerned about the use of this land for residential and is concerned about significant impacts to traffic. He is also concerned about adding street lights and removing the protected trees.

**Jaime Rodriguez, Traffic Engineer,** said that staff reviewed this project and agreed that there will not be a traffic impact. The biggest concern staff had was the driveway access and wanted to make sure that people that purchase the homes have the ability to exit the property by driving forward and not have to back up on Calaveras Rd. Staff felt that the proposal by the developer for a hammerhead driveway is a good concept because it allows a 3 point turn on the site. In addition, traffic engineering recommended a dynamic vehicle feedback sign be installed for westbound Calaveras Road, just to the east of Old Piedmont Road.

Commissioner Azevedo asked staff to explain the street lights. Mr. Rodriguez said that the street lights are for safety for the residents. Staff did require that a \$15,000 bond be provided should the developer warrant a traffic signal sometime in the future at the corner of Calaveras Road and Evans Roads, however at this time, the signal is not warranted.

**Close the public hearing**

**Motion** to close the public hearing.

M/S: Azevedo/Tabladillo

AYES: 6

NOES: 0

Commissioner Mandal asked how much visibility would a person have with the hammerhead driveway. Mr. Rodriguez explained that a hammerhead driveway gives the opportunity for someone who pulls into the site to back up on site and exit leaving forward.

Commissioner Mandal noted that a traffic impact analysis was done for the Alviso/Adobe project and then one done for this project and asked staff to explain the difference. Mr. Rodriguez pointed out that the Alviso/Adobe project was separate and the property was originally going to be used for a parking lot. There are currently three existing homes near the site and the applicant wants to add five homes. Staff's goal is to make sure that residents are safe entering into their home and out and that is also why staff asked for the \$15,000 bond.



Commissioner Tabladillo said she understands that people speed down the hill and asked what can be done about kids playing outside and how can enforcement occur. Mr. Rodriguez said that the responsibility of making sure that enforcement can actually occur falls back on the traffic engineer. He has to make sure that the City's engineering traffic surveys establishes current speed limits for the City. Staff just finished surveys on Calaveras Road and found out that vehicles were traveling much faster than the posted speed of 30 mph. The City just installed a guard rail and made surface improvements on Calaveras Road and as a result, the ability to drive faster on this street occurred and there were minimal crashes in the two year period and more rear end accidents at the stop sign so staff recommended a speed limit of 35 mph so that a police officer would not have to be there all day long.

Commissioner Tabladillo asked if the new sign is a permanent sign and Mr. Rodriguez said yes and that it will be solar powered.

Vice Chair Galang asked what is the speed limit along Calaveras Road and Mr. Rodriguez said 35 mph.

Vice Chair Galang how many lanes are there on East Calaveras and Mr. Rodriguez said there are two lanes, one in each direction.

Vice Chair Galang asked staff if the City could add a left turn lane for residents and Mr. Rodriguez said that staff would not recommend that at this time.

Commissioner Azevedo asked what is the height of the homes and Ms. Duncan said the maximum height of the buildings is 30 feet.

Commissioner Mandal pointed out that the horse ranch has been there since the 1800's and the odor might be blown toward the homes. He asked how could the property owners be notified about this. Mr. Williams said that this could be added to the conditions of approval.

**Motion** to approve Major Tentative Map No. MA2004-3, Zone Change No. ZC2004-1, "S" Zone Approval Amendment No. SA2005-16, and Environmental Impact Assessment No. EA2005-8 with all of the special conditions and findings noted in the staff report and a new condition that reads below:

*" The seller shall provide disclosure of ranch activity through a recommended disclosure document to the satisfaction of the City Attorney. "*

M/S: Mandal/Azevedo

AYES: 6

NOES: 0

**2.  
MAJOR TENTATIVE  
PARCEL MAP NO.  
MA2005-9, "S" ZONE  
APPROVAL NO. SZ2005-  
9 AND  
ENVIRONMENTAL  
IMPACT ASSESSMENT  
NO. EA2005-11**

Kim Duncan, Junior Planner, presented a request to demolish an 124,026 square foot industrial building and construct twelve (12) new R&D buildings, totaling 128,712 square feet, a Tentative Parcel Map to subdivide the new buildings into approximately 69 condominium units, sign program, and site modification including the removal of protected trees, new landscaping, and reconfigured parking, located at 1100 Cadillac Court. Ms. Duncan recommended approval with conditions and also mentioned the revised plans regarding impacts to building D.

Planning Commission Date: February 22, 2006

Item No. **3.**

## MILPITAS PLANNING COMMISSION AGENDA REPORT

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Category: Public Hearing

Report Prepared by: Kim Duncan

Public Hearing: Yes: X No: \_\_\_\_\_

Notices Mailed On: 2/11/06

Published On: 2/10/06

Posted On: 2/11/06

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**TITLE:** MAJOR TENTATIVE MAP NO. MA2004-3, ZONE CHANGE NO. ZC2004-1, 'S' ZONE APPROVAL AMENDMENT NO. SA2005-16 AND ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2005-8.

**Proposal:** A request for a five (5)-lot subdivision, rezone from Agriculture (A) to Single-Family Residential (R1-6), and removal of protected trees.

**Location:** 2016 Calaveras Road.

**RECOMMENDATION:** Recommend approval to the City Council.

**Applicant/Owner:** Sylvia Leung, 968 Hanson Court, Milpitas, CA 95035

**Previous Action(s):** S-Zone Approval

**Environmental Info:** Initial Study and Mitigated Negative Declaration No. EA2005-8

**General Plan Designation:** Single-Family Low Density

**Present Zoning:** Agriculture

**Existing Land Use:** Residential

**Agenda Sent To:** Applicant and Owner as noted above.

**Attachments:** Plans, applicant letter of request, Initial Study and Mitigated Negative Declaration, Seismic Hazard Evaluation, Geotechnical Investigation, Biotic Assessment, City arborist tree inspection summary.

PJ# 3179

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### BACKGROUND

The project site is currently developed with three (3) older single-family residences constructed in the early 1900's. According to the Building Division archives, building permits for sewer hookups were issued for each residence in September, 1988.

## SITE DESCRIPTION

The project site is a .735-acre (.95 gross acre) rectangular parcel located at the base of the Diablo Range foothills near the southeast portion of Piedmont Road and Calaveras Road. The project site is bound to the north by Calaveras Road, to the west by Piedmont Road, to the east by the Old Piedmont Road (abandoned), and within the Scenic Corridor. Directly south of the project site is the Arroyo de Los Coches channel, which is dedicated as a Santa Clara Valley Water District (SCVWD) flood control/drainage easement and stabilized with rock gabion. The parcel on the southeast corner of Piedmont Road and Calaveras Road, currently developed with a single-family residence (2004 Calaveras Road), is not a part of this application. The project site is currently developed with three (3) older single-family residences (2016, 2040 & 2064 Calaveras Road).

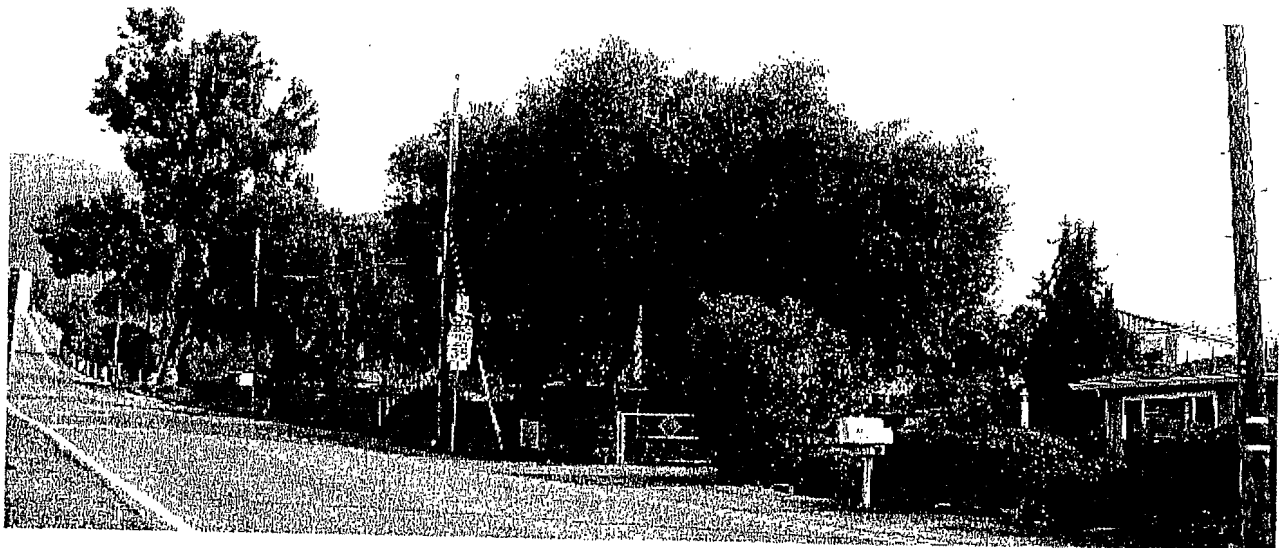
Surrounding land uses include undeveloped foothills (Santa Clara County) to the north, multi-family residential (R3) to the northwest, single-family residential (R1-6) to the south (Piedmont Subdivision-PUD76), and southwest, and park and open space (POS) to the east. The Alviso-Adobe is located approximately 130 feet southwest of the southeast corner of the project site across the abandoned Old Piedmont Road.

## THE APPLICATION

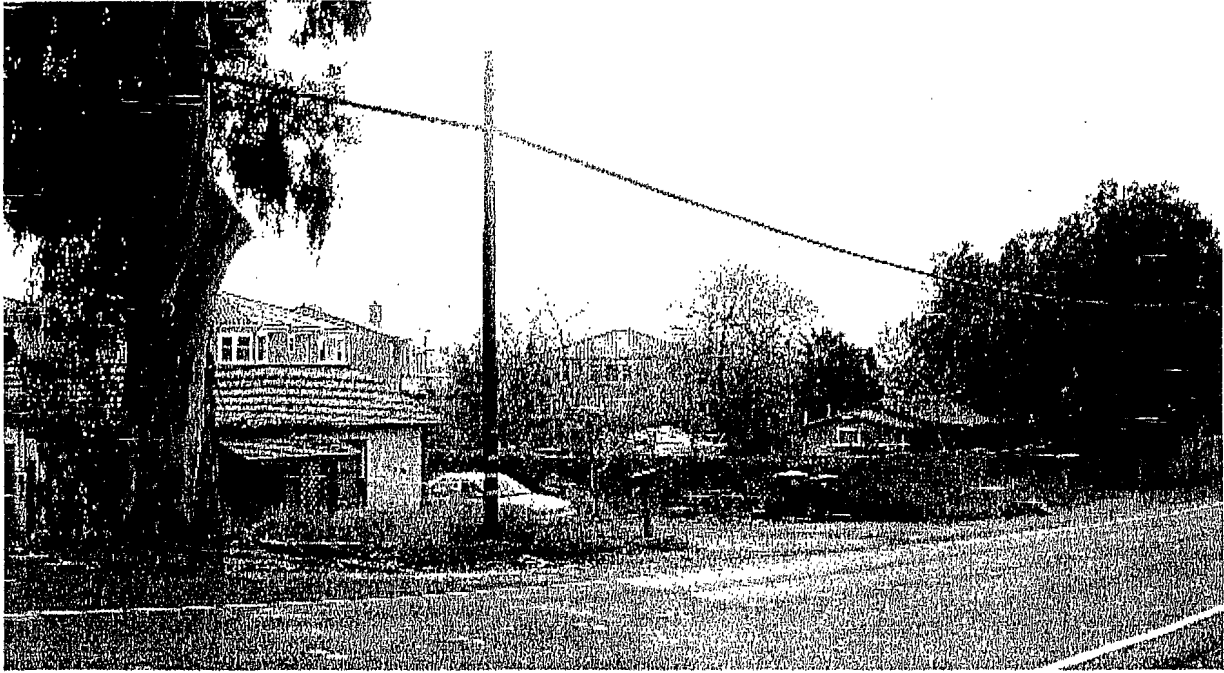
The applicant is requesting approval of a Major Tentative Map per Sections 4 & 30 of the Subdivision Ordinance, Zoning Map Amendment pursuant to Section 62 of the Milpitas Zoning Ordinance, and removal of protected trees pursuant to Title X-2-4.02 of the Milpitas Municipal Code.

### Project Description

The applicant is proposing to subdivide an existing .735-acre (.95 gross acre) parcel to five (5) individual lots ranging in size from 6,023 square feet to 6,740 square feet and rezone the parcels from Agriculture (A) to Single-Family Residential (R1-6). The three (3) existing single-family residences will be demolished and, ultimately, five (5) new two-story single-family residences constructed on the project site. In order to accommodate the proposed building footprints and driveways, 8 ordinance sized protected trees are proposed for removal.



2016 Calaveras Road (southeast)



*2016 Calaveras Road (southwest)*

### **TENTATIVE MAP**

This Major Tentative Map application has been submitted to subdivide an existing .735-acre (.95 gross) parcel to five (5) new parcels for the purpose of creating new single-family lots. The proposed parcels range in size from 6,023 square feet to 6,740 square feet, with an average slope of 5%, and minimum lot widths exceeding 60 feet.

### **ZONE CHANGE**

According to the Milpitas General Plan's Land Use/Zoning Consistency (Table 2-3), the Agriculture zoning designation is interim zoning for Single Family Low Density and rezoning is required prior to redevelopment. The applicant is requesting approval to rezone the property from Agriculture (A) to Single-Family Residential (R1-6) with the intent of developing the property with single-family residences.

*Site Access and Circulation:* Primary access to the project site is currently provided by three (3) driveways located off Calaveras Road. The applicant is proposing to remove the existing driveways and construct five (5) new driveways to provide access to the new parcels. Staff had concerns regarding future residential property owner safe ingress and egress off Calaveras Road due to the slope of Calaveras Road at this location. The applicant worked with City staff to develop hammerhead driveways on each proposed parcel that would allow drivers to navigate vehicles to exit parcels by vehicle front end, therefore limiting backing out of driveways onto Calaveras Road

*No Build Zone:* The project is located adjacent to the Arroyo de Los Coches channel, which is part of the Santa Clara Valley Water District flood control drainage easement. The Los Coches creekbed and slopes are reinforced with rock slope (gabion) protection, including portions of the proposed lot rear yards. According to the tentative map, the proposed rear yards of the five (5) parcels would consist of a 15-foot setback from the building footprint and the remainder would consist of the top of bank and slopes of the Los Coches creek. To ensure creek slope stability,

the *Santa Clara Valley Water District recommends* the 15-foot rear setback from the building footprint be designated as a “no build zone”. This “no build zone” would prevent potential destabilization of the creek bank and slopes by the impact of future structures (pools, accessory buildings/structures) in proximity of the creek top-of-bank.

*SCVWD Easement:*

As part of the Piedmont Subdivision (PUD 31-1997), a portion of the Los Coches creek was dedicated to the Santa Clara Valley Water District as flood control easement, including a flag portion of the rear property line of Lot 1 (extending behind the corner parcel located at 2004 Calaveras Road). The majority of this flag portion is SCVWD dedicated flood control easement, however there is an approximately 156 square foot rectangular portion that was not dedicated for flood control. The *Engineering division recommends*, to create consistency with the existing easement, this 156 square foot portion of property be dedicated to the SCVWD as flood control easement. The SCVWD reviewed this application and concurs with the recommendation.

*Park Dedication*

The City standard for providing parkland is 5 acres of parks for every 1,000 residents. Under Section 9 of the Subdivision Ordinance, the project is subject to a park-in-lieu fee for the cost to acquire 0.097 acres of public parkland. The *estimated* park-in-lieu fee is \$212,700.00. Staff recommends, as a condition of approval, that the applicant pay the park-in-lieu fee prior to Final Map recordation.

*Other Improvements*

As required by the City's Subdivision Ordinance, the applicant will install necessary public improvements along Calaveras Road, including curb and gutter, pavement, sidewalks, striping, streetlights, fire hydrants, and underground existing services on the southeast corner of Calaveras Road and Piedmont Drive.

**SITE AND ARCHITECTURE REVIEW**

The project site is currently developed with three (3) single-family residences with fourteen (14) mature trees, including Spruce, Olive, Palm, Willow, Pine, and Eucalyptus, in which ten (10) are considered protected (37" circumference or greater where a zoning or subdivision approval is required). According to the tentative map, the proposed building footprints and driveways would require the removal of eight (8) protected trees (Nos. 2, 3, 4, 5, 7, 8, 9, 10). In order to ensure that natural resources and quality of life will be preserved, *staff recommends*, as a condition of approval, prior to the issuance of building permits, the applicant provide a detailed landscape plan showing a minimum replacement ratio of 2:1 24" box trees on the project site to the Planning Division for review and approval.

In addition, there is the possibility that future construction activities on Lots 2 and 11 may damage the two remaining protected trees (Nos. 6 & 11), therefore *staff recommends*, as a condition of approval, prior to issuance of building permits, the plans indicate tree protective fencing be in place at the drip line of tree Nos. 6 & 11 during any construction activities on Lots 2 & 11.

The applicant is requesting approval to rezone the parcel from Agriculture (A) to Single-Family Residential (R1-6). The Single-Family Residential (R1-6) zoning district does not have a Site and Architecture Overlay district, therefore no further site and architectural review is required for

future residential development. However, any future development will be required to conform to the City's zoning ordinance requirements in terms of setbacks, height, and general provisions.

## ISSUES

### Air Quality and Noise

Air quality and noise impacts associated with the construction period are anticipated to consist of airborne dust particles and the operation of heavy machinery as earthwork commences. These dust and noise impacts have the potential to be a nuisance and could be considered significant on a temporary and localized basis. As a *mitigation measure*, the applicant will be required to adhere to construction Best Management Practices (BMP's) suggested by the Bay Area Air Quality Management District (BAAQMD), such as watering all active construction areas and cover trucks hauling soil, as well as limited construction activities to weekdays (7:00 a.m. to 7:00 p.m.). Staff is confident that implementation of BMP's and limiting construction activities to weekdays will reduce the impact of construction related dust and noise to less than significant.

### Biologic Resources

*Pallid Bats:* The .73-acre (.95 gross acre) project site is located adjacent and north of the Arroyo de Los Coches channel. A Biotic Assessment, conducted by H.T. Harvey & Associates (dated December 12, 2005), determined that the existing buildings provide potential roost sites for the Pallid bat and other species of bats. Demolition of the existing buildings would not result in a significant impact to bat roosting habitat, however if bats occupy the existing buildings, demolition could result in the direct loss of bat colonies, including special-status species such as the Pallid bat. The direct loss of individuals in a hibernaculum could eliminate an entire colony due to the loss of pregnant females, resulting in a significant impact, therefore *as a mitigation measure*, the applicant shall submit pre-construction surveys, buffer zones, and exclusion of bats prior to demolition of roosts.

*Airborne Dust:* Impacts associated with construction activities are anticipated to consist of airborne dust particles as earthwork commences. This stray dust could be considered significant on a temporary and localized basis and impact the quality of habitat in the Arroyo de Los Coches channel adjacent to the project site. However, the applicant will be required to implement Best Management Practices (BMP's) during construction (Air Quality mitigation measures as noted above), therefore it is anticipated the impacts would be minimal.

*Loss of Trees:* Vegetation on the project site consists of robust exotic herbs and non-native trees, including blue gum (*Eucalyptus globosus*), olives (*Olea europea*), red willow (*Salix laevigata*), Peruvian peppertree (*Schinus molle*), California fan palm (*Washingtonia filifera*), and a variety of ornamental shrubs. According to a tree survey conducted by City staff, there are fourteen (14) trees on site of which ten (10) are identified as ordinance size protected trees (37" circumference or greater). The proposed building footprints and driveways would require the removal of approximately ten (10) existing trees, of which eight (8) are considered protected. The removal of protected trees on site could be considered significant, however, as a *mitigation measure*, the applicant will be required to replace the trees at a 2:1 ratio with 36" box trees. Because of the high replacement-planting ratio of trees, the removal of 8 protected trees would not be considered significant.

## Cultural Resources

The project site is located at the base of the Diablo Range foothills with the Arroyo de Los Coches creek adjacent to the south. Directly south of the Arroyo de Los Coches is the Piedmont Subdivision (PUD 76), which was approved in 1999. Native American archaeological sites in the Milpitas area of Santa Clara County tend to be situated at the base of hills on alluvial flats near a source of fresh water, and near the historic margins adjacent to the San Francisco Bay. Given its location and setting, it is possible that the project site may contain Native American archaeological resources. Grading activities during the construction of the proposed project could result in the discovery of unknown human remains or artifacts.

According to an Archaeological Study (dated 11/24/97) for the Piedmont Subdivision, the project area is located within an identified "Cultural Resource Zone", an area where sensitive for historic and prehistoric cultural materials could be located. The Study determined the project could have a *significant impact* on the Resource Zone. The Calaveras Country Estates project site is located directly north of the Arroyo de Los Coches, adjacent to the Piedmont Subdivision site, and in proximity of the "Cultural Resource Zone". Therefore, **staff recommends** the following *mitigation measures* for the Piedmont project be required for Calaveras Country Estates: a project archaeologist conduct a detailed evaluation of subsurface construction plans prior to construction, hand excavate a salvage sample of 5% deposit that is to be impacted by grading/trenching and analysis, monitoring of all earth moving activities of native soils, cessation of all construction in the event of prehistoric traces (human remains, artifacts, concentrations of shell/bone/rock/ash) are encountered, and an archaeologist report discussing the site with archival documentation, description, and analysis of archaeological findings to preserve significant information relating to the site.

## Geology and Soils

The project site is located at the base of the Diablo Range of a predominantly residential district, east of Piedmont Road. According to the Alquist-Priolo Earthquake Fault Zoning Map, and a Seismic Hazards Evaluation Letter Report conducted by John Goyle & Associates (dated April 26, 2005), the site is located within the Alquist-Priolo Special Studies Zone (A-P zone), however no active faults are known to cross beneath the parcel. The Hayward and Crosley faults are located northeast of the property (approximately 1,500 feet and 200 feet, respectively). In addition, the General Plan Geotechnical Hazards Map (Figure 5-1) indicates the project site is located in an area of expansive soils. According to the Report, seismic hazards that could impact the property include ground-surface rupture, seismically induced ground shaking, and liquefaction. County Seismic Hazards maps show the property is not located in a seismically – induced liquefaction hazards zone. The Report determined there was no evidence for active faulting on the parcels to the south and southeast, and the potential for a fault to traverse the subject property is very low, therefore the risk of ground-surface rupture at the subject property is also very low. The City's building permit process requires a site-specific soils report and compliance with seismic safety construction standards as part of the city's building permit review and construction inspection process, therefore the impacts anticipated regarding seismic ground shaking, expansive soils, or liquefaction are *less than significant*.

### **Hazardous Materials**

The project site is developed with three (3) residential structures that were constructed approximately 1901-1930. Typically, buildings constructed prior to 1980 have the potential to contain asbestos or lead-based paints within the building materials. Construction activities proposed by the project may involve use and transport of hazardous materials, including contaminated soil and/or groundwater, and building demolition debris containing lead and asbestos. Removal, relocation, and transportation of hazardous materials could result in accidental releases or spills, potentially posing health risk to workers, the public, and environment, therefore the impact would be considered significant unless mitigated. As part of the permitting process, contractors are required to obtain approval from the Bay Area Air Quality Management District to remove asbestos and approval from the Department of Toxic Substances for removal of lead based paint.

However, in order to determine if there are significant groundwater or soil associated hazardous materials on site, the applicant shall submit to the City an Environmental Site Assessment with recommendations and guidelines in order to mitigate environmental exposure and to segregate the hazardous materials from non-hazardous construction debris. Therefore, with an Environmental Site Assessment and applicable State regulations, the impact of hazardous material exposure would be reduced to a level considered *less than significant with mitigation*.

### **Long Term Impacts**

The proposed project is for the demolition of three (3) existing residential structures, subdivision of an existing parcel to five (5) individual lots, rezoning from Agriculture (A) to Single-Family Residential (R1-6), and removal of protected trees. As conditioned, the applicant will be responsible for applying Best Management Practices (BMP's) and restricting days and hours of construction operations, and replacing protected trees at a high replacement ratio. The proposed project, as conditioned, is not anticipated to adversely impact parking or circulation, or create long term nuisances from construction-related noise or airborne dust in the surrounding residential areas.

### **Conformance with the General Plan**

The Single Family-Low Density General Plan designation allows a residential density of between 3 and 5 units per gross acre) the project site is approximately .735 acres (.95 gross acres), therefore, the 5 lots shown on the tentative map would have a density of 5.28 dwelling units per acre. The General Plan rounds to the nearest whole number so the project would be considered to be 5 dwelling units per acre, therefore consistent with the General Plan.

According to the Milpitas General Plan's Land Use/Zoning Consistency (Table 2-3), the Agriculture zoning designation is an interim zoning for Single Family Low Density designated land and rezoning is required prior to redevelopment. The applicant is requesting approval to rezone the parcel from Agriculture (A) to Single Family Residential (R1-6), in conformance with the General Plan.

According to the General Plan, the project site is a major visual gateway located within the City's Scenic Corridor, as shown on the Scenic Resources and Routes General Plan Map (Figure 4-6). Lands within the Scenic Corridor are subject to special design controls and height limitations.



However, because the project site is within the Valley Floor Planning area (General Plan designation Single Family Low Density), it is exempt from the General Plan's Scenic Corridor policies. This exemption was approved by the City Council as part of the General Plan Amendment 1998-1a which removed an inconsistency between the General Plan and Zoning Ordinance regarding implementation of the Scenic Corridor Policies.

### **Conformance with the Zoning Ordinance**

The proposed parcels and building footprints would conform to the Single-Family Residence (R1-6) zoning district development standards, as shown on Table 1.

**Table 1:  
Conformance with Single-Family Residential (R1-6)  
Development Standards**

	Lot 1	Lot 2	Lot 3	Lot 4	Lot 5
Lot size (min. 6,000 sq. ft.):	6,669 sq.ft.	6,023 sq.ft.	6,204 sq.ft.	6,309 sq.ft.	6,740 sq.ft.
Lot Width (min. 60')	63.50'	63.50'	62.00'	64.00'	75.13'
Setbacks:					
Front (min. 20')	20'	20'	20'	20'	20'
Side (min. 6' adjacent to garage, total 13')	6'7"	6'7"	6'7"	6'7"	6'7"
Rear (min. 25')	26.87'	26.87'	28.48'	34.32'	36.04'
Driveway/Parking spaces (min. 8'; 2 spaces)	14'2	14'2	14'2	14'2	14'2
Conforms with minimum standards?	Yes	Yes	Yes	Yes	Yes

### **Conformance with the Subdivision Map Act and Subdivision Ordinance**

With respect to approving the subject application, the Subdivision Map Act defers to local ordinance. The city's Subdivision Ordinance requires design and improvement consistency with the General Plan. As previously covered in the conformance with the General Plan section, the proposed Major Tentative Map is in conformance with the General Plan.

### **Conformance with CEQA**

An Initial Study and Draft Mitigated Negative Declaration (EA2005-8) have been prepared for this project. The 20-day public review period began on February 2, 2006 and closed on February 21, 2006. Any comments received will be presented at the public hearing for this project. The environmental assessment identifies the following potential impacts related to this project:

- Air Quality & Noise
- Biological Resources

- Cultural Resources
- Hazards and Hazardous Materials

Further discussion of other potential impacts and mitigation measures are included in the attached Environmental Assessment No. EA2005-8.

## **RECOMMENDATION**

Close the Public Hearing. Adopt the Initial Study and Mitigated Negative Declaration (No. EA2005-8), approve Major Tentative Map No. MA2004-3, Zone Change No. ZC2004-1, and 'S' Zone Approval Amendment No. SA2005-16.

## **FINDINGS**

### **California Environmental Quality Act**

1. The Initial Study and Mitigated Negative Declaration (EIA No. EA2005-2) prepared for this project represents the independent review of the City of Milpitas Planning Staff and Planning Commission.

### **General Plan**

2. The proposed project is consistent with the Milpitas General Plan in that it is consistent with:
  - Guiding Principles 2.a-G-3 and 2.a-I-10, which provide for a variety of housing types and densities that meet the needs of individuals and families, as well as foster community pride and growth through beautification of existing and future development;
  - Implementation Policy 2.a-I-2 which promotes in-fill development in the incorporated city limits. The project is an infill project replacing existing residential structures, primarily surrounded by existing developed sites;
  - It does not conflict with any existing policies, allows the development of new housing uses within this portion of the City, and will be in conformance with the underlying General Plan land use designations once approved by the City Council.

### **Zoning Ordinance**

3. The proposed project, as conditioned, is consistent with the Milpitas Zoning Ordinance in that the proposed development is within the allowable density of the zoning district and conforms to the land use and development standards of the Single-Family Residential (R1-6) zoning district.
4. As conditioned, the proposed project complies with the Milpitas Municipal Code, Chapter X-2 (Tree and Planting Ordinance) in that the removal of protected trees will be replaced at a ratio where no adverse visual impact would result.
5. The layout of the site is compatible and aesthetically harmonious with adjacent and surrounding development because the project would be complementary to the adjacent existing residential development to the northwest, west, and south of the project site.

### **Subdivision Map Act**

6. The proposed project is consistent with the State Subdivision Map Act and the Subdivision Ordinance in that the proposed subdivision, design, and improvements are consistent with the General Plan.

7. The site is physically suitable for the type of development proposed because the project site is relatively flat, currently developed with three (3) residential structures, and located adjacent to residential developed properties.
8. The site is physically suitable for the proposed density of development because the project is in conformance with the General Plan density requirements, and the Zoning Ordinance in terms of lot area, width, and yard requirements.
9. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife and their habitat because, as conditioned, no structures will be permitted within the required rear yard at the creek top of bank, bat roosts will be protected, and Best Management Practices (BMPs) will be in place during construction activities.
10. That the design of the subdivision or type of improvements is not likely to cause serious public health problems because Best Management Practices (BMPs) will be in place during construction activities
11. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because, as conditioned, all appropriate encroachment easements will be obtained prior to construction activities, and access to property will be from a city maintained public street.

#### **CONDITIONS OF APPROVAL**

1. This approval is for Major Tentative Map No. MA2004-3, Zoning Map Amendment No. ZC2004-1, 'S' Zone Approval Amendment No. SA2005-16, and Environmental Impact Assessment No. EA2005-8 to create five (5) new parcels, rezone the property from Agriculture (A) to Single Family Residential (R1-6), and removal of 8 protected trees, as depicted on the Major Tentative Map, dated February 22, 2006, and as amended by these conditions of approval. (P)
2. The proposed project shall be conducted in compliance with all applicable federal, state, and local regulations. (P)
3. If, at the time of submittal for Parcel Map approval, there is a project job account balance due to the City for recovery of review fees, review of parcel map will not be initiated until the balance is paid in full. (P)
4. Prior to submittal for Final Map recordation, the applicant shall pay to the City the park-in-lieu fee. (P)
5. Prior to the issuance of building permits, the applicant provide a detailed landscape plan showing a minimum replacement ratio of 2:1 24" box trees on the project site to the Planning Division for review an approval. (P)
6. Prior to issuance of building permits, the landscape plans shall show and the applicant shall install, tree protective fencing at the drip lines of trees Nos. 6 & 11. The tree protective fencing shall remain in place during all construction activities on Lots 2 & 11. (P)

7. Watering all active construction areas twice daily and more often during windy periods. Active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives. (*Mitigation Measure III.d-1*) (P)
8. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least a 2-foot freeboard level within their truck beds. (*Mitigation Measure III.d-2*) (P)
9. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites. (*Mitigation Measure III.d-3*) (P)
10. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites. (*Mitigation Measure III.d-4*) (P)
11. Sweep streets daily with water sweeper if visible soil material is carried onto adjacent public streets. (*Mitigation Measure III.d-5*) (P)
12. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.). (*Mitigation Measure III.d-6*) (P)
13. Install sandbags or other erosion control measures to prevent silt runoff to public roadways. (*Mitigation Measure III.d-7*) (P)
14. Plant vegetation in disturbed areas as quickly as possible. (*Mitigation Measure III.d-8*) (P)
15. Suspend excavation and grading (all earthmoving or other dust-producing activities during periods of high winds when watering cannot eliminate visible dust plumes or when winds exceed 25 mph (instantaneous gusts)). (*Mitigation Measure III.d-9*) (P)
16. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site. (*Mitigation Measure III.d-10*) (P)
17. Limit the area subject to excavation, grading and other construction activity at any one time. (*Mitigation Measure III.d-11*) (P)
18. Pre-construction Surveys and Buffer Zones. A pre-construction survey for roosting bats should be conducted prior to demolition of the buildings. The survey should be conducted by a qualified bat biologist (i.e., a biologist holding a CDFG collection permit and a Memorandum of Understanding with DCFG allowing the biologist to handle and collect bats). No activities that would result in disturbance to active roosts would proceed prior to the completed surveys. If no active roosts are found, then no further action would be warranted. If either a maternity roost or hibernaculum is present, the following mitigation measure should be implemented. CDFG should also be notified of any active nurseries within the construction zone. (*Mitigation Measure IV.a-d.1*) (P)
19. Exclude Bats Prior to Demolition of Roosts. If an active nursery roost is found, demolition of the buildings should commence before maternity colonies form (i.e., prior to March 1) or after young are volant (flying) (i.e., after July 31). If a non-breeding bat hibernaculum is found, the individuals should be safely evicted, under the direction of a qualified bat biologist (as determined by a Memorandum of understanding with CDFG), by opening the roosting area to allow air flow. Demolition should then follow no sooner than the following day (i.e., there should be no less than one night between initial disturbance for air flow and the demolition). This action should allow bats to leave during dark hours, thus increasing the

chance of finding new roosts with a minimum of potential predation during daylight.

*(Mitigation Measure IV.a-d.2) (P)*

20. Prior to any tree removal, the applicant shall submit to the City a landscape plan showing all existing trees on site, with species, common name, circumference, trees proposed for removal, and replacement at a 2:1 ratio of 36" box trees to Planning Staff approval.  
*(Mitigation Measure IV.a-d.3) (P)*
21. Prior to issuance of grading permits, the project archeologist shall conduct a detailed evaluation of subsurface construction plans when these plans become available to determine the areas that will be impacted by grading and trenching. *(Mitigation Measure V.b-d.1) (P)*
22. The project archeologist shall hand excavate a salvage sample of 5% deposit that is to be impacted by grading and trenching and analyzed with the results to be presented in a final written report to the City. This excavation will be implemented to gather data from the parts of the site which are proposed for disturbance and will occur prior to the issuance of any building or grading permits. *(Mitigation Measure V.b-d.2) (P)*
23. All earth moving activities of native soils during construction shall be monitored by a qualified archaeologist. *(Mitigation Measure V.b-d.3) (P)*
24. In the event during monitoring, significant prehistoric traces (human remains, artifacts, concentrations of shell/bone/rock/ash) are encountered, all construction within a fifty meter radius of the find should be stopped and the applicant will notify the Planning Division immediately. The project archaeologist shall examine the find and make appropriate recommendations based on State and local regulations and City Council Resolution No. 7287. The applicant will abide by the archeologist's recommendations. *(Mitigation Measure V.b-d.4) (P)*
25. The project archaeologist will produce a report that thoroughly discusses the site with archival documentation, description and analysis of archaeological findings to preserve significant information relating to the site. The report shall include a signed statement from the project archaeologist that all mitigation measures have been complied with. The report will be submitted to City Planning Staff and the Northwest Information Center of the California State Inventory. *(Mitigation Measure V.b-d.5) (P)*
26. Prior to demolition permit issuance or any pre-demolition activities, a Phase I Environmental Assessment detailing the project site history and potential for soil/groundwater hazardous materials contamination shall be submitted to the Planning Division for review. *(Mitigation Measure VII-b-1) (P)*
27. Project grading and construction activities shall not occur outside the hours of 7:00 a.m. to 7:00 p.m. on weekdays and weekends, and shall not occur on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, as per the City of Milpitas Noise Ordinance. *(Mitigation Measure XI-a-1) (P)*
28. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)

29. Prior to issuance of any building permits, developer shall obtain approval from the City Engineer of the water, sewer and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)
30. At the time of final map approval, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to final map approval. (E)
31. Show on the tentative map how the site will drain. Drainage facilities outletting sump conditions shall be designed to convey the flows and protect all buildings. There should be no overbank drainage from the developed portion of the site into the creek. For developed portion of the site, storm water runoff should be collected and distributed to the City's storm drain system. The existing storm drain outfalls shall be capped and/or removed. (E)
32. Prior to final map approval, the developer shall obtain design approval and bond for all necessary public improvements along Calaveras Road, including but not limited to curb and gutter, pavement, sidewalk, signage and striping, street lights, fire hydrants, storm drain, sewer and water services and adjustment of all existing utility boxes to grade. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. Prior to building occupancy permit issuance of the last building, all public improvements shall be completed. (E)
33. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, plan check and inspection deposit. (E)
34. Prior to final map recordation, the developer shall pay a \$15,000 contribution towards the design and /or construction of a traffic signal improvements or other traffic safety improvements at Calaveras Boulevard/Piedmont-Evans Road intersection. (E)
35. Prior to any building permit issuance developer shall submit an executed petition to annex the subject property into the CFD 2005-1, with respect to the property, the special taxes levied by Community Facility District (CFD 2005-1) for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized concurrently with the final map recordation or prior to any building permit issuance, whichever occurs first. The developer shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. (E)

36. In accordance with Milpitas Municipal Code XI-1-7.02-2, the developer shall underground all existing wires between the utility poles number 1 and 3, 2 and 5, and poles 3 to 7, with utility poles number 3, 4, 5, and 6 to be removed, as shown on the Engineering Services Exhibit "T" dated 9/12/2005 with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be undergrounded. In addition to existing overheads and proposed services, developer shall also underground existing services to the adjacent property on the Southeast corner of Calaveras Road and Piedmont Drive intersection. (E)
37. Prior to recordation of any final map, the developer shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. (E)
38. The final map shall be recorded prior to issuance of any building permit. (E)
39. The final map shall show a 15-foot wide backyard setback restriction, as shown on the engineering services exhibit "T", dated 1/26/2006. No permanent structures such as buildings, pools, storage shed and other structures will be permitted within this restricted area. (E)
40. The developer shall dedicate on the final map necessary public service utility easements, street easements and easements for water and sanitary sewer purposes. (E)
41. Prior to final map recordation, developer shall dedicate to Santa Clara Valley Water District necessary easement/deed for Flood Control and Drainage Purposes, as shown on the Engineering services Exhibit "T" dated, 1/26/2006. (E)
42. The developer shall submit the following items with the building permit application and pay the related fees prior to final inspection (occupancy) by the Building Division:
  - A. Water Service Agreement(s) for water meter(s) and detector check(s).
  - B. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). (E)
43. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation.
44. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrub are permitted within City utility easements, where the easement is located within landscape areas. (E)
45. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), developer may be required to obtain a permit for removal of any existing tree(s). Contact the Street Landscaping Section at (408) 586-2601 to obtain the requirements and forms. (E)
46. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Contact the

RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)

47. This project is below the 1-acre impervious surface threshold therefore it is exempt from Regional Water Quality Control Board's C.3 requirements. (E)
48. Prior any grading permit issuance, developer shall submit plan to Santa Clara Valley Water District (SCVWD) for review, and obtain their approval. Provide a slope stability analysis on the existing wall/slope for the proposed Fill and retaining wall along the creek side. All correspondence with SCVWD shall be provided to the City. (E)
49. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)
50. It is the responsibility of the developer to obtain any necessary encroachment permits from affected agencies, including but not limited to, Pacific Gas and Electric, SBC, Comcast, and Santa Clara Valley Water District. Copies of approvals or permits from other agencies must be submitted to the City of Milpitas Engineering Division. (E)
51. The developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities. (E)
52. Developer shall submit to the City for approval, a Demolition Plan for the existing buildings to be removed. All utilities shall be properly disconnected before the building can be demolished. Submitted plan shall clearly show (state) how the water service(s), sewer service(s) and storm service(s) will be disconnected. (E)
53. Make changes as noted on Engineering Services Exhibit "T" (dated 1/26/2006) and submit a Mylar of the revised tentative map to the Planning Division within three weeks of this tentative map approval. No application for the review of the final map or improvement plans will be accepted until this condition is satisfied. (E)

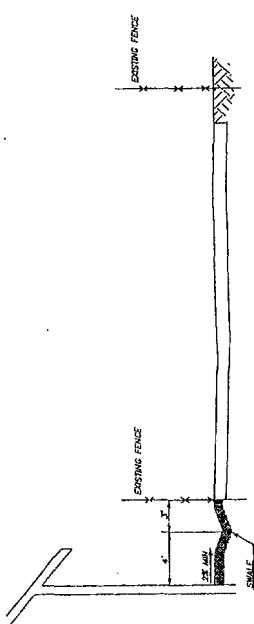
(P) – Planning Division

(E) – Engineering Division

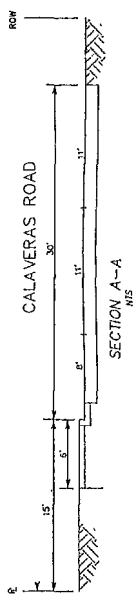




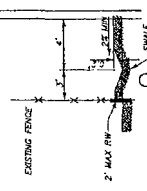
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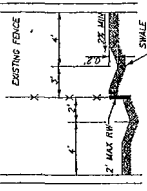
SECTION E-E  
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SECTION A-A  
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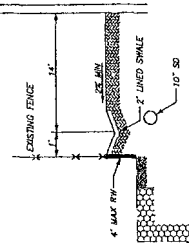
NOTE: ENTIRE WIDTH OF CALAVERAS ROAD WITHIN THE PROJECT FRONTAGE SHALL BE SLURRY SEALED



SECTION D-D  
NTS



SECTION B-B  
NTS

SECTION C-C  
NTS